

LAW OFFICES
KOTEEN & NAFTALIN
1150 CONNECTICUT AVENUE
WASHINGTON, D.C. 20036

BERNARD KOTEEN
ALAN Y. NAFTALIN
RAINER K. KRAUS
ARTHUR B. GOODKIND
GEORGE Y. WHEELER
HERBERT D. MILLER, JR.
MARGOT SMILEY HUMPHREY
PETER M. CONNOLLY
CHARLES R. NAFTALIN

M. ANNE SWANSON
GREGORY C. STAPLE
OF COUNSEL

RECEIVED
JUL - 8 1992
TELEPHONE (202) 467-5700
TELECOPY (202) 467-5915
CABLE ADDRESS "KOBURT"

Federal Communications Commission
Office of the Secretary

July 7, 1992

RECEIVED
JUL - 8 1992
ORIGINAL FILE

Federal Communications Commission
Office of the Secretary

Ms. Donna Searcy
Secretary of Federal
Communications Commission
1919 M Street, N.W.
Washington, D.C. 20054

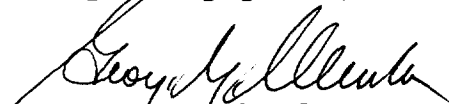
RE: Redevelopment of Spectrum for Emerging Technologies
ET Docket No. 92-9

Dear Ms. Searcy:

Transmitted herewith on behalf of Telephone and Data Systems, Inc. are an original and 9 copies of its reply comments in the above captioned proceeding.

In the event that there are any questions concerning this matter, please communicate with the undersigned.

Very truly yours,


George Y. Wheeler

No. of Copies rec'd 0+9
List A B C D E

ORIGINAL
RECEIVED

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

JUL - 8 1992

Federal Communications Commission
Office of the Secretary

In the Matter of)
)
Redevelopment of Spectrum to)
Encourage Innovation in the)
Use of New Telecommunications)
Technologies)

ET Docket No. 92-9

TO: The Commission

REPLY COMMENTS OF TELEPHONE AND
DATA SYSTEMS, INC.

Telephone and Data Systems, Inc., on behalf of itself and its subsidiaries (collectively "TDS"), by its attorneys, submits its reply comments in the above-captioned proceeding regarding the reallocation of spectrum for the use of new telecommunications technologies.

More than one hundred and thirty parties filed comments in response to the Commission's Notice of Proposed Rulemaking on a wide range of subjects, in addition to those on which comment we specifically requested, including the use of proprietary "sharing" technologies, possible service offerings which would qualify for allocations of spectrum, frequency allocation plans for PCS, procedures for awarding PCS licenses and diverse other topics. We expect the Commission to consider many if not all of these matters as they relate to the allocation of spectrum for

PCS in ET Docket No. 90-314 and reserve comment regarding these matters pending adoption of the Commission's allocation proposals in that docket.

We request that the Commission confirm the rights of existing 2 GHz microwave licensees to retain co-primary status indefinitely, the obligation of new 2 GHz licensees to compensate existing licensees who relinquish or modify use of their existing 2 GHz microwave facilities, and the need for rulemaking proceedings to consider technical and other issues related to frequency sharing and facilities migration. We urge the Commission to act promptly in order to lay the groundwork for future allocations of spectrum for PCS without the threat of unnecessary and disruptive discontinuance or impairment of established services.

Discussion

1. It is essential that licensees of 2 GHz private and common carrier microwave facilities be permitted to operate on a co-primary basis with the licensees of emerging technology facilities until they voluntarily relinquish their rights to use these frequencies. Numerous comments provide details of the engineering, environmental, cost, reliability and other considerations which go into the design of the 2 GHz microwave systems at issue here. The arbitrary selection of a term of years at the end of which the existing licenses rights to operate on these 2 GHz frequencies could end is not the answer.

The Commission has the responsibility not to adopt procedures which encourage the disruption or impairment of existing services. The co-primary status of existing licensees and the emerging technology licenses promotes spectrum efficient, sound and cost-effective system design based on the needs of everyone involved. When the day comes that the needs of existing licensees and emerging technology licenses are incompatible, existing licensees must have the right to judge the suitability and availability of substitute or successor facilities before voluntarily relinquishing their co-primary status. The burden of bearing the cost of shifting existing services to new frequencies or to non-radio media must remain the responsibility of the emerging technology licensee whenever that shift occurs.

COMSEARCH and others have presented extensive analytical support for "indefinite" co-primary status for existing and new emerging technology licensees. Their studies show that substantial amounts of spectrum are available to support the launch of emerging technology services without displacing existing licensees. These same studies show that over time the coordinated co-existence of existing and new licensees can make additional spectrum available as market demand for emerging technologies grow. The Commission should not limit the co-primary status of existing 2 GHz licensees considering that the significant options for sharing spectrum between existing microwave systems and emerging technologies appear to be available.

2. The Commission has also received a large number of comments filed by existing 2 GHz microwave licensees, many with pending applications and with microwave facilities proposals on the drawing boards requesting that these applications and proposed systems expansions and enhancements not be considered "conditionally secondary." We strongly urge the Commission to confirm that 2 GHz microwave links applied for after January 16, 1992 as part of continuing cellular and other system construction programs qualify for co-primary status.


3. We also support the need for early consideration of the issues raised by COMSEARCH, the Telecommunications Industry Association (Mobile Communications Division and Fixed Point-to-Point Communications Section) and the United States Telephone Association for specific rule changes in Parts 2, 21, 25 and 94 of the Commission's Rules. Frequency coordination, band channelization, path lengths, channel loading, and other technical issues must be considered in order to decide what frequencies should be made available for migration of existing 2 GHz licensees to higher frequency bands. The Commission's proposed blanket "waiver" of eligibility requirements to permit private microwave licensees to relocate in higher common carrier bands is short-sighted and does not begin to address the complex technical and procedural considerations involved.

Conclusion

We have emphasized here the importance of avoiding disruption or impairment of existing services in the 2 GHz band because as a common carrier TDS is committed to provide high quality, uninterrupted, cost-effective service to its customers. The reliance of the public upon our services must not be jeopardized by or become an inadvertent casualty of the reallocation of the 2 GHz band to PCS and other emerging technologies. We believe that with adequate precautions this reallocation can be accomplished rapidly and cost-effectively. TDS strongly supports the allocation of frequencies for PCS and welcomes the opportunity to become a PCS licensee in order to make this emerging technology available to its customers as rapidly as possible.

Respectfully submitted,

TELEPHONE AND DATA SYSTEMS, INC.

By 

George Y. Wheeler
Koteen & Naftalin
1150 Connecticut Avenue, N. W.
Suite 1000
Washington, D. C. 20036
(202) 467-5700

July 8, 1992

Its Counsel